

REMARKS

This Amendment is in response to the Office Action dated January 22, 2009, in which claims 1-10 and 12-14 are initially rejected. Applicant respectfully requests reconsideration and allowance of all pending claims in view of the above-amendments and the following remarks.

I. CLAIM AMENDMENTS

The applicant hereby presents an amended set of claims in which independent claims 1, 13 and 14 are amended to include the elements of original claim 4 and part of the elements of original claim 3, thus emphasizing the use of an SMS or email type message to request access to the second communication network, from a terminal connected to the first network.

These amendments correspond to subject matter of claims granted by the European patent Office in a corresponding application.

II. CLAIM REJECTIONS UNDER §102(b)

Claims 1, 9 and 13-14 are rejected under §102(b) as being anticipated by Spaur et al. U.S. Patent No. 5,732,074 as allegedly clarified by NPL reference “Proxy Server.PDF”.

Since the Examiner relies on a secondary reference to make the rejection, Applicant respectfully objects to the rejection under a §102(b) “anticipation” theory. In any case, the above-amendments incorporating subject matter of claim 4 (not rejected under §102(b) therefore overcome the rejection of claims 1, 9 and 13-14 based on anticipation by the Spaur et al. reference, with or without the secondary NPL reference.

The rejection of claims 1, 9 and 13-14 under §102(b) should therefore be withdrawn.

III. CLAIM REJECTIONS UNDER §103(a)

Claims 2 and 10 are rejected under §103(a) as being unpatentable over Spaur et al. U.S. Patent No. 5,732,074 in view of Liu et al. U.S. Publ. No. 2004/0120295.

Claim 3 is rejected under §103(a) as being unpatentable over Spaur et al. U.S. Patent No. 5,732,074 in view of Liu et al. U.S. Publ. No. 2004/0120295 and further in view of Porozni WO 2003/010669.

Claims 4 and 6-7 were rejected under §103(a) as being unpatentable over Spaur et al. U.S.

Patent No. 5,732,074 in view of Liu et al. U.S. Publ. No. 2004/0120295, in view of Porozni WO 2003/010669 and further in view of Kelton et al. U.S. Publ. No. 2004/0125779, the references now being stacked **4-deep** in an attempt to meet the claimed subject matter.

Claims 5 and 8 were rejected under §103(a) as being unpatentable over Spaur et al. U.S. Patent No. 5,732,074 in view of Liu et al. U.S. Publ. No. 2004/0120295, in view of Porozni WO 2003/010669, further in view of Kelton et al. U.S. Publ. No. 2004/0125779, and even further in view of Chen et al. U.S. Patent No. 6,842,456, the references now being stacked **5-deep** in an attempt to meet the claimed subject matter.

Claim 12 is rejected under §103(a) as being unpatentable over Spaur et al. U.S. Patent No. 5,732,074 in view of Liu et al. U.S. Publ. No. 2004/0120295, in further view of Haugli et al. U.S. Publ. No. 2004/0125776.

A. Spaur

Spaur discloses a device for accessing data and services of a network controller being installed in a vehicle from a workstation (a PC for example), connected to a communication network, for example, the Internet.

The network controller provides for two methods of data transmission and reception, a first method being implemented by means of a mobile phone transported by the vehicle (packet mode data transmission and reception), and a second method implemented by means of the vehicle's radio station (sub-carrier signal data transmission and reception).

This document is not relevant alone with regard to the present claims, as it neither discloses nor suggests the initialization of a communication session by opening a tunnel between a client terminal and a mobile server terminal.

Indeed, in Spaur, the network controller enables communication between the client terminal and the mobile server terminal within the vehicle, but not a direct communication via a tunnel.

B. Liu

Liu discloses a system which offers a secure network path through firewalls between an external network mobile node and the corresponding domestic network node.

Particularly, according to a specific embodiment, an internal secure and transparent tunnel is connected between two (*HA* and *MN*) modules, one of which is accessible through a firewall (*paragraph [30]* and *figure 1D*).

Moreover, this document does not disclose the establishment of a communication by opening a tunnel directly between a client and a server. As a matter of fact, according to figure 1D of Liu, the *MN* and *HA* modules act as intermediaries, respectively between the domestic network node and the external network mobile node.

Thus, the system disclosed in this document does not enable a direct communication between the external mobile network node and the corresponding domestic network node.

Consequently, this document is not relevant alone with regard to the subject matter of independent claims 1, 13 or 14.

C. Combination of Spaur and Liu With Regard to Claim 2

This combination suggested by the Examiner is not relevant with regard to claim 2 of the present patent application, in as far as neither Spaur nor Liu discloses the establishment of a direct communication tunnel between a client terminal and a mobile server terminal.

D. Porozni (Barry)

Porozni discloses a system for providing secure access to applications or private databases for wireless devices.

The general principle disclosed in this document relies on the use of a wireless access provider (209) acting as an interface between a wireless device and a secure private network, said wireless access provider having the function of translating identification requests transmitted by a wireless device, wishing to access a secure network, in formal identification requests being in conformity with the secure network identification system, and in reverse, the translation of identification system responses.

Therefore, this document is not relevant, considered alone, with regard to the invention of claim 3 or the inventions of independent claims 1, 13 or 14, as it neither discloses nor suggests the establishment of a communication by opening a direct tunnel between a client and a server, as it uses an intermediary (the wireless access provider).

E. Combination of Spaur, Liu and Porozni With Regard to Claim 3

The combination of Spaur, Liu and Paorozni cited against claim 3 of the present patent application is not relevant as none these three documents discloses the establishment of a communication by opening a direct tunnel between a client and a server.

Moreover, claim 3 recites the different steps (step A to step I) of the communication initialization phase.

The Examiner discusses each step independently from each other, in order to assert that claim 3 is obvious, in view of the Spaur, Liu and Porozni.

Doing so, the Examiner does not take into account either the coherence and the link between the steps, or the elements of the system that implements these different steps, which renders improbable the fact that one skilled in the art would come to claim 3 of the discussed invention if he combines these three documents.

Thus, the Examiner considers that step A, of the client terminal request transmission, is disclosed by the Spaur document, but that this document does not disclose step B, of reception by the client terminal of a response to its own request.

Whereas, the Examiner considers that step B is disclosed by document Porozni.

It is not obvious to thus be able to seek in different prior art documents, the disclosure of different successively implemented steps, and comprising in addition, requests and corresponding responses implemented between well defined elements of the system.

Moreover, the Examiner relies on figures 1 and 3 of Porozni, which illustrate different embodiments and which are, in principle, not combinable between each other.

Finally, step F of claim 3 of the present patent application cannot be assimilated to reference 113 of figure 1 of Porozni.

For the above-reasons, the invention recited in claim 3 would not be obvious to a person of ordinary skill in the art without the use of improper hindsight (i.e., prior knowledge of the various steps of claim 3 linked together) as used by the Examiner. Thus, the rejection of claim 3 should be withdrawn.

F. Kelton

Kelton discloses a process of channel allocation in a WLAN type wireless local network, for a plurality of clients.

This document is not relevant alone with regard to the invention recited in the claims 1, 13 or 14, as it neither discloses nor suggests the establishment of a communication by opening a direct tunnel between a client and a server.

The Combination of Spaur, Porozni, Liu and Kelton is also not relevant to the invention recited in claim 4 (the features of which are inserted in amended claims 1, 13 and 14).

Claim 4 specifies that the request signal transmitted by the client terminal can be of SMS or email type, and that this request contains a list of predetermined parameters.

None of these four documents cited by the Examiner against claim 4, discloses these features.

Indeed, contrary to the Examiner's opinion, there is no indication or suggestion concerning the message transmitted by the client terminal, as disclosed by the Spaur document, which would lead to think that this message could be of SMS or email type, although it can be addressed to a mobile phone. Thus, it is specified that this message is of « *CDPD* » type, (for "transmitting data by packets on cellular networks") (*column 12, lines 54-55*), but, it is not specifically indicated that it can be transmitted as an SMS or email message.

Finally, the combination of the Spaur, Porozni, Liu and Kelton is not obvious, in as far as Kelton discloses the management of a wireless local network, and as it is sufficiently out of the scope of the other documents, which concern mobile communications.

IV. CONCLUSION

The Applicant presents an amended set of claims in which new claim 1 includes the characteristics of original claim 4 and part of the characteristics of original claim 3, thus emphasizing the use of an SMS or email type message to request access to the second communication network, from a terminal connected to the first network.

The Examiner states that old claim 4, now included in claims 1, 13 and 14 would be obvious in view of the combination of Spaur, Porozni, Liu and Kelton.

As explained, this combination is not relevant with regard amended claim 1, in as far as neither of these four documents discloses the characteristics of old claim 4, i.e. transmitting a request signal from the client terminal in the form of a SMS or an email, this request containing a list of predetermined parameters

Moreover, combining four documents, as done by the Examiner, tends to demonstrate that claim 4 is not obvious.

Finally, in order to demonstrate the alleged obviousness of claim 3 (step D of which being inserted in new claim 1), the Examiner combines three documents, which he uses individually for different steps of this claim, which is not obvious either (please refer to section II.E above).

For at least the above-reasons, Applicants respectfully request that the rejections of all pending claims be withdrawn.

The foregoing remarks are intended to assist the Office in examining the application and in the course of explanation may employ shortened or more specific or variant descriptions of some of the claim language. Such descriptions are not intended to limit the scope of the claims; the actual claim language should be considered in each case. Furthermore, the remarks are not to be considered exhaustive of the facets of the invention which are rendered patentable, being only examples of certain advantageous features and differences, which Applicants' attorney chooses to mention at this time. For the foregoing reasons, Applicants reserve the right to submit additional evidence showing the distinction between Applicants' invention to be unobvious in view of the prior art.

Furthermore, in commenting on the references and in order to facilitate a better understanding of the differences that are expressed in the claims, certain details of distinction between the same and the present invention have been mentioned, even though such differences do not appear in all of the claims. It is not intended by mentioning any such unclaimed distinctions to create any implied limitations in the claims.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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